1948

File No. O. Trade Marks/48

Legal **DEPARTMENT**

A **BRANCH**

P 3E

Subject:—

Opinion under the

Trade Marks Act, 1940

Rec'd 1.2.48

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Stl. Sectt. Slip 24 B e.

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CONFIDENTIAL

Legal Department File No.O Trade 12 Cord/30

Sr. No.	Compilation No.	Subject	Pages
2	Gell. 7071 dt-2-10..	Ban Trade Cartn Act, 1930. Sec. 60(b).- Prohibiting the illegal use of the seal adopted by Govt.	1-2

1715

Submitted.

2. H.M. Industries desires that steps should be taken to prohibit the use of the seal adopted by Government from being freely used by outsiders in advertisements etc. It is therefore proposed to issue suitable Press Note pointing out that it is illegal for private bodies and individuals to use the seal adopted by Govt. The P. & S.D. considers that sec. 69(b) of the Trade Marks Act, 1940 prohibits unauthorised use of the seal and has referred the papers to the R.L.A. for advice.

3. Sec. 69(b) of the Trade Marks Act, 1940 provides that:

"If a person without due authority uses in connection with any trade, calling or profession any device, emblem or title in such manner as to be calculated to lead to the belief that he is employed by or supplies goods to or is connected with His Majesty's Government or the Central Govt. or the Provincial Govt. or any department of such Govt. he may at the suit of any person who is authorised to use any such device, emblem or title or the Registrar be restrained by injunction from continuing to use the same.

"In modern practice a seal is a particular sign made to attest in the most formal manner the execution of an instrument. A public seal has been defined as an impression made of some device by means of a piece of metal or other hard substance kept and used by a public authority

(law Lexicon by Iyer p.1166). The Govt.seal would therefore be covered by the term device and as such its use by individuals in trade, calling or professions would be prohibited.

The view taken by the F. & S.D. is therefore correct.

4. Attention is also invited to the Press Communique issued by the Govt. of India Ministry of Home Affairs pointing the attention of the public to the provisions of the said sec. 60(b) for prohibiting the unauthorised use of the emblem of the National Flag in any trade, business, calling or profession.

Id/-T.Y.Choudhri.
12/8

Ar.A.D. The view expressed in the F. & ---- office note dt.22-7-1948 is correct. The paper may be "seen and returned"

Id/-S.B.B.
12/8

A.L.B. Id/-S.T.K.
13/8

H.L.A. Id/-P.M.L.
12/8

U.O.N. to F. & S.D. No.7978 dt.21-8-48.

RAP/16-8.
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